

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

BRENDA BOYD, et al.,

*Plaintiff,*

v.

UNION PACIFIC RAILROAD  
COMPANY

*Defendant.*

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CV 2:09-CV-254-TJW-CE

**ORDER**

The above-referenced case was referred to the undersigned United States Magistrate Judge for pre-trial purposes in accordance with 28 U.S.C. § 636. The report of the Magistrate Judge (Dkt. No. 96), which contain his recommendation that the Court grant the Plaintiff's motion for sanctions (Dkt. No. 59), has been presented for consideration.

On April 7, 2011, Defendant Union Pacific Railroad Company filed its objections to the report and recommendation (Dkt. No. 99). The Court has considered the objections and the arguments of the parties, the applicable law, and the report and recommendation, the Court is of the opinion that the objections do not have merit and that the conclusions of the Magistrate Judge are correct. Therefore, the Court adopts, in its entirety, the report of the United States Magistrate Judge as the conclusions of this Court (Dkt. No.96). Accordingly, Plaintiff's motion for sanctions (Dkt. No. 59) is GRANTED. The Court also adopts the sanctions recommended by the United States Magistrate Judge. Accordingly, the Court will instruct the jury as follows:

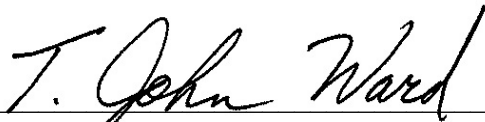
The court issued a discovery order in this case that required both parties to produce all documents that were relevant to the Plaintiff's claims. Defendant

failed to comply with this order when it did not produce its First Aid CPR training manual until March 14, 2011. You may take Defendant's failure to produce this document into account in evaluating this case.

The Court also ORDERS that Union Pacific Railroad Company is precluded from offering any testimony that is: (1) inconsistent with the previous testimony that its representatives have given regarding the First Aid CPR training manual; and (2) inconsistent with its policies and procedures as recited in the training manual.

It is SO ORDERED.

SIGNED this 8th day of April, 2011.

  
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T. JOHN WARD  
UNITED STATES DISTRICT JUDGE